

SCHEDULE 4

Transitional provisions

PART 5

Advance applications for operating licences by existing operators

Meaning of existing operator

39.—(1) This paragraph specifies the circumstances in which a person making an advance application for an operating licence is to be treated for the purposes of this Part as an existing operator.

(2) Where the advance application is for a remote or non-remote casino operating licence, a person is an existing operator if on the date on which the advance application is made—

- (a) he holds a certificate of consent issued under paragraph 4 of Schedule 2 to the 1968 Act⁽¹⁾ for the purposes of the grant of a casino licence; or
- (b) he is applying for such a certificate and the application has not been withdrawn or refused.

(3) Where the advance application is for a remote or non-remote casino operating licence, a person (referred to in this sub-paragraph as “the first person”) is also an existing operator if on the date on which the advance application is made—

- (a) another person holds a certificate of consent issued under paragraph 56 of Schedule 2 to the 1968 Act⁽²⁾, and the certificate relates to the transfer to the first person of a casino licence; or
- (b) that other person is applying for such a certificate and the application has not been withdrawn or refused.

(4) Where the advance application is for a remote or non-remote bingo operating licence, a person is an existing operator if on the date on which the advance application is made—

- (a) he holds a certificate of consent issued under paragraph 4 of Schedule 2 to the 1968 Act for the purposes of the grant of a bingo club licence; or
- (b) he is applying for such a certificate and the application has not been withdrawn or refused.

(5) Where the advance application is for a remote or non-remote bingo operating licence, a person (referred to in this sub-paragraph as “the first person”) is also an existing operator if on the date on which the advance application is made—

- (a) another person holds a certificate of consent issued under paragraph 56 of Schedule 2 to the 1968 Act, and the certificate relates to the transfer to the first person of a bingo club licence; or
- (b) that other person is applying for such a certificate and the application has not been withdrawn or refused.

(6) Where the advance application is for a remote bingo operating licence, a person is also an existing operator if on the date on which the advance application is made—

- (a) he holds a multiple bingo certificate issued under the Schedule to the Gaming (Bingo) Act 1985⁽³⁾, or

(1) Paragraph 4 of Schedule 2 to the 1968 Act was amended by the Gaming (Amendment) Act 1982 (c. 22), section 1 and paragraph 2 of Schedule 1, and by the Gaming Amendment Act 1990 (c. 26), section 1 and paragraph 7 of the Schedule to that Act.

(2) Paragraph 56 of Schedule 2 to the 1968 Act was amended by the Gaming Amendment Act 1990, section 1 and paragraph 8 of the Schedule to that Act.

(3) 1985 c.35.

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- (b) he is applying to the Gambling Commission for such a certificate and the application has not been withdrawn or refused.
- (7) Where the advance application is for a remote or non-remote general betting operating licence, a person is an existing operator if on the date on which the advance application is made—
 - (a) he holds a bookmaker’s permit or a betting agency permit issued under Schedule 1 to the 1963 Act; or
 - (b) he is applying to the appropriate authority for such a permit, and the application (including any appeal) has not been withdrawn or finally determined.
- (8) Subject to sub-paragraph (9), where the advance application is for a remote or non-remote pool betting operating licence, a person is an existing operator if on the date on which the advance application is made—
 - (a) he is registered as a pool promoter under Schedule 2 to the 1963 Act; or
 - (b) he is applying to be so registered, and the application (including any appeal) has not been withdrawn or finally determined.
- (9) Where the advance application is for a non-remote pool betting operating licence to authorise the provision of facilities for pool betting in connection with dog-racing, a person is an existing operator if on the date on which the advance application is made any of sub-paragraphs (10) to (12) applies.
- (10) This sub-paragraph applies where the applicant for the non-remote pool betting operating licence—
 - (a) holds a track betting licence issued under that Schedule; or
 - (b) he is applying to the appropriate authority for such a licence, and the application (including any appeal) has not been withdrawn or finally determined.
- (11) This sub-paragraph applies where—
 - (a) another person who holds a track betting licence is applying for the transfer of that licence to the applicant for the non-remote pool betting operating licence, and
 - (b) the application has not been finally determined.
- (12) This sub-paragraph applies where the applicant for the non-remote pool betting operating licence operates a totalisator under the written authority of the occupier of a track given under section 16(1) of the 1963 Act⁽⁴⁾.
- (13) Where the advance application is for a remote pool betting operating licence to authorise the provision of facilities for pool betting in connection with dog-racing, a person is an existing operator if on the date on which the advance application is made—
 - (a) he holds a licence for an inter-track betting scheme granted under Schedule 5ZA to the 1963 Act⁽⁵⁾; or
 - (b) he is applying for such a licence, and the application (including any appeal) has not been withdrawn or finally determined.
- (14) Where the advance application is for a gaming machine general operating licence in respect of an adult gaming centre or a family entertainment centre, a person is an existing operator if on the date on which the advance application is made—
 - (a) he holds a permit under section 34 of the 1968 Act—

(4) Schedule 5ZA was inserted by [S.I. 1995/3231](#).

(5) Section 16 was amended by the Betting, Gaming and Lotteries (Amendment) Act 1985 (c. 18), section 2(2) and the Schedule to that Act, and by [S.I. 1995/3231](#).

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- (i) granted by one of the authorities mentioned in paragraph 1(b) or (d) of Schedule 9 to that Act(6) in respect of amusement machine premises; and
 - (ii) which is expressed to be granted for the purposes of subsection (5E) of that section(7); or
- (b) he is applying to the appropriate authority for such a permit, and the application (including any appeal) has not been withdrawn or finally determined.
- (15) Where the advance application is for a remote or non-remote lottery operating licence of the kind described in section 98(2)(c) of the 2005 Act (a lottery manager’s operating licence), a person is an existing operator if on the date on which the advance application is made—
- (a) he holds a lottery manager’s certificate granted under Schedule 2A to the 1976 Act(8); or
 - (b) he is applying for such a certificate, and the application has not been withdrawn or finally determined.

(6) Sub-paragraph (b) of paragraph 1 was partially repealed by the Local Government Act 1972 (c. 70), Schedule 30. Sub-paragraph (d) of paragraph 1 was amended by the Local Government (Scotland) Act 1973 (c. 65), Schedule 24, paragraph 32, and by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 78(4).

(7) Subsection (5E) was inserted by S.I. 1996/1359.

(8) Schedule 2A was inserted by the National Lottery etc. Act 1993 (c. 39), section 50(2) and Schedule 9.